

### **REMARKS**

Prior to the current amendments, claims 4, 5 and 12-17 were pending in the present application. Based on the above amendments, claims 4, 5 and 12-17 have been canceled, without prejudice, and new claims 18-44 have been added. The claim amendments are fully supported throughout the specification, as noted in more detail below. Thus, after entry of the amendments, claims 18-44 will be pending in the present application.

Favorable reconsideration of the present application is respectfully requested in view of the comments and amendments herein.

#### **I. Rejection of 4, 5 and 12-17 Under 35 U.S.C. §112**

Claims 4, 5 and 12-17 stand rejected under 35 U.S.C. §112, first paragraph, for failing to comply with written description requirements.

As noted above, claims 4, 5 and 12-17 have been canceled, without prejudice.

Thus, this rejection is moot.

Applicant wishes to point out for the record, however, that the Examiner's rationale for rejecting claims 14 and 17 is erroneous. The Examiner apparently bases at least a portion of the rejection on the fact that "Applicant's original claims only specified one of the means."<sup>1</sup> A rejection under 35 USC § 112, first paragraph, relates to description of the claimed subject matter in the specification. Applicant does not believe that a comparison of subject matter between later-presented claims and originally-presented claims is relevant. Further, Applicant respectfully submits that the means recited in claims 14 and 17 were adequately disclosed in the specification.<sup>2</sup> Thus, although this rejection is now moot, Applicant submits for the record that the rejection was erroneous.

#### **II. Rejection of Claim 13 Under 35 U.S.C. §112**

Claim 13 stands rejected under 35 U.S.C. §112, second paragraph, for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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<sup>1</sup> Office Action mailed November 9, 2007, page 2, item #2, last paragraph.

<sup>2</sup> See, e.g., Specification, pages 8-12 and Figs. 1-3.

As noted above, claim 13 has been canceled, without prejudice.

Thus, this rejection is moot.

**III. Objection to the Drawings Under 37 CFR 1.83(a)**

The Drawings are objected to under 37 CFR 1.83(a) for failing to show every feature of the invention specified in the claims.

As noted above, claims 14-17 have been canceled, without prejudice.

Thus, this rejection is moot.

Applicant wishes to note for the record, however, that one drawing element may represent one means, or more than one means. As such, as in the present case, a single drawing element may represent more than one feature, thereby meeting the requirements of 37 CFR 1.83. Thus, it is not required to strictly correlate each means clause with a separate drawing element.

**IV. Objection to the Specification**

The Specification is objected to for failing to describe all related applications, namely the co-pending divisional Application Serial No. 10/345,002. As noted above, Applicant has amended the Specification to include a Cross-Reference to this divisional application.

Thus, Applicant respectfully requests the Examiner to withdraw this objection.

**V. Rejection of Claims 4 and 12-17 Under 35 U.S.C. §103(a)**

Claims 4 and 12-17 stand rejected under 35 U.S.C. §103(a) as being obvious over Meyer (US 6,700,902) in view of Mangin (US 6,925,060).

As noted above, claims 4 and 12-17 have been canceled, without prejudice.

Thus, this rejection is moot.

**VI. Rejection of Claim 5 Under 35 U.S.C. §103(a)**

Claim 5 stands rejected under 35 U.S.C. §103(a) as being obvious over Meyer US 6,700,902 in view of Mangin (US 6,925,060) and in further view of Barany (US 6,434,140).

As noted above, claim 5 has been canceled, without prejudice.

Thus, this rejection is moot.

## **VII. New Claims 18-44**

Applicant has added new claims 18-44 to recite subject matter to which Applicant is entitled. New claims 18-44 are fully supported throughout the specification, and do not add any new matter. Further, claims 18-44 are allowable over any combination of the cited references.

Independent claims 18 and 29 recite, in part, a transmitter for generating time-sensitive information comprising, among other things, a queue, a memory storing a minimum segment size and a maximum segment size, and a processor, wherein the processor is operable to generate a first segment between the minimum and maximum segment size and further operable to

generate a second segment . . . upon receipt of an acknowledgement message from a receiver, wherein the second segment comprises a second segment size having any size up to the maximum segment size.

Independent claims 30 and 31 recite, in part, a transmitter for generating time-sensitive information comprising means for storing a plurality of data frames representing time-sensitive information, means for storing a minimum segment size and a maximum segment size, means for generating a first segment between the minimum and maximum segment size and a second segment,

wherein the means for generating is further operable to generate a second segment . . . upon receipt of an acknowledgement message from a receiver, wherein the second segment comprises a second segment size having any size up to the maximum segment size.

Independent claim 32 recites, in part, a processor comprising various instructions including at least one instruction for storing a minimum segment size and a maximum segment size, at least one instruction for generating a first segment between the minimum and maximum segment size, and

at least one instruction operable to cause the transmitter to generate a second segment . . . upon receipt of an acknowledgement message

from a receiver, wherein the second segment comprises a second segment size having any size up to the maximum segment size.

Independent claims 33 and 44 recite, in part, a method of generating time-sensitive information, comprising storing data frames and minimum/maximum segment sizes, generating a first segment between the minimum and maximum segment size, and

generating a second segment . . . upon receipt of an acknowledgement message from a receiver, wherein the second segment comprises a second segment size having any size up to the maximum segment size.

Support for the above-noted independent claims may be found throughout the specification.<sup>3</sup>

There is no combination of Meyer, Mangin, or Barany that discloses or suggests a transmitter, a processor, or a method for generating time-sensitive information operable to generate a first segment having a first segment size between the minimum and maximum segment size and further operable to generate a second segment, upon receipt of an acknowledgement message from a receiver, wherein the second segment comprises a second segment size having *any size* up to the maximum segment size, as recited by the independent claims.

Meyer teaches away from the presently claimed second segment having any size up to the maximum segment size by requiring all data packets to have a size in between a minimum and maximum size. In particular, Meyer states

[T]he data packet 60 has a minimum allowable data packet size 61 and a maximum allowable data packet size 62. Preferably, the data packet size has a minimum allowable data packet size 61 of about 15 bytes and a maximum allowable data packet size 62 of about 512 bytes.<sup>4</sup>

Meyer further teaches away from the recited subject matter by disclosing an object of transmitting data packets of the largest size possible up to a maximum size

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<sup>3</sup> See, e.g., Specification, page 8, lines 19-27 and page 10, lines 3-10, and page 8, line 36 to page 9, line 4, page 10, lines 17-20, page 11, lines 6-8, 11-13 and 32-34, and Figs. 1-3.

<sup>4</sup> Meyer, col. 10, lines 11-16.

capable of being successfully transferred.<sup>5</sup> As such, Meyer does not want to transmit a segment of any size, but teaches attempting to maximize the size of the transmitted data package.

Even in the case where Meyer allows transmitting a data packet of less than the maximum size, Meyer further teaches away from the recited second segment of any size up to the maximum segment size by disclosing that attempts to transmit data packets are ceased upon reaching the minimum allowable data packet size 16. In particular, Meyer states

The process of decreasing the packet size continues until either the data packet 60 is successfully transferred, at which time the remaining data packets 60 are sent at this data packet size until all the data 65 has been delivered, ***or until a minimum allowable data packet size 61 is reached at which time the attempt to transfer the data 65 is ceased, the data 65 is determined to be undeliverable, and the application is terminated.***<sup>6</sup>

Thus, in contrast to the presently claimed subject matter, Meyer teaches that a data packet must be between minimum allowable data packet size 61 and a maximum allowable data packet size 62. Further, in a clear departure from the present subject matter, Meyer emphatically teaches that a data packet having a size below the minimum allowable data packet size 16 “is determined to be undeliverable.” This teaching of Meyer is clearly opposed to the present subject matter. Therefore, Meyer does not disclose the presently claimed second segment size having *any size* up to the maximum segment size, and in fact definitively teaches away from the presently claimed subject matter.

Further, any attempt to combine Meyer with another reference to reject the presently-claimed subject matter is inappropriate. In particular, “[I]f the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious.”<sup>7</sup> Based on the above teachings, the principle of operation of Meyer clearly restricts any transmitted data packets to be

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<sup>5</sup> *Id.* at col. 6, lines 17-21 and col. 10, lines 29-31..

<sup>6</sup> *Id.* at col. 11, lines 30-38 (emphasis added).

<sup>7</sup> *In re Ratti*, 270 F.2d 810, 123 USPQ 349 (CCPA 1959).

between the minimum allowable data packet size 61 and the maximum allowable data packet size 62. Any suggested modification of Meyer to include the recited second segment size having *any size* up to the maximum segment size would clearly violate the principle of operation of Meyer. As such, any proposed combination of prior including Meyer would not sufficient to render the claims *prima facie* obvious. Thus, the proposed combination of Mangin and/or Barany to teach the presently recited subject matter is not sufficient to render the claims *prima facie* obvious.

Therefore, the Examiner is respectfully requested to allow the present independent claims 18, 29-33 and 44. Further, claims 19-28 and 34-43 depend from a respective one of independent claims 18 and 33, and thus are allowable for at least the same reasons. Additionally, each of dependent claims 19-28 and 34-43 separately recites a combination of features not disclosed or suggested by any combination of the prior art.

For example, referring to claims 19 and 34, there is no combination of the prior art that discloses or suggests a transmitter or a method for generating time-sensitive information operable to generate a first segment having a first segment size between the minimum and maximum segment size and further operable to generate a second segment, upon receipt of an acknowledgement message from a receiver, wherein the second segment comprises a second segment size having any size up to the maximum segment size, wherein the second segment size comprises less than the minimum segment size.<sup>8</sup>

Further, for example, referring to claims 20, 21, 35 and 36, there is no combination of the prior art that discloses or suggests a transmitter or a method for generating time-sensitive information operable to generate a first segment having a first segment size between the minimum and maximum segment size and further operable to generate a second segment, upon receipt of an acknowledgement message from a receiver, wherein the second segment comprises a second segment size having any size up to the maximum segment size, and further operable to generate one or more subsequent segments after the second segment if more of the time-sensitive information is available in the queue, wherein the one or more subsequent segments have any size up to the maximum segment size.<sup>9</sup>

Additionally, for example, referring to claims 24 and 39, there is no combination

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<sup>8</sup> See, e.g., Specification at page 10, lines 8-10 and page 11, lines 32-34.

<sup>9</sup> See, e.g., Specification at page 11, lines 34-36, and Fig. 3.

of the prior art that discloses or suggests a transmitter or a method for generating time-sensitive information operable to generate a first segment having a first segment size between the minimum and maximum segment size and further operable to generate a second segment, upon receipt of an acknowledgement message from a receiver, wherein the second segment comprises a second segment size having any size up to the maximum segment size, and wherein the minimum segment size is predefined and wherein the maximum segment size is negotiated between the transmitter and the receiver.<sup>10</sup>

Further, for example, referring to claims 26 and 41, there is no combination of the prior art that discloses or suggests a transmitter or a method for generating time-sensitive information operable to generate a first segment having a first segment size between the minimum and maximum segment size and further operable to generate a second segment, upon receipt of an acknowledgement message from a receiver, wherein the second segment comprises a second segment size having any size up to the maximum segment size, and wherein the acknowledgement message represents a confirmation of a receipt of the first segment by the receiver.<sup>11</sup>

Therefore, based on the above remarks, Applicant respectfully requests the Examiner to allow claims 18-44.

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<sup>10</sup> See, e.g., Specification at page 11, lines 6-8 and 11-13.

<sup>11</sup> See, e.g., Specification at page 11, lines 21-22 and 30-32, and Fig. 3, steps 302, 304 and 306.

**CONCLUSION**

The present application is believed to be in condition for allowance in view of the above comments and amendments. A prompt action to such end is earnestly solicited.

In the event any fees are due in connection with this document, the Commissioner is authorized to charge those fees to Deposit Account No. 17-0026.

Should the Examiner believe a telephone interview would be helpful to expedite favorable prosecution, the Examiner is invited to contact applicants' undersigned representative at the telephone number below.

Respectfully submitted,

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